



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 5, 2012

Mr. Steven M. Peña, Sr.  
Counsel for the City of Kyle  
Davidson, Troilo, Ream & Garza, P.C.  
7550 West Interstate 10, Suite 800  
San Antonio, Texas 78229-5815

OR2012-15957

Dear Mr. Peña:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 467142.

The City of Kyle (the "city"), which you represent, received a request for the charges, disposition, and any other records of the arrest and charges against a named individual. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. This office has found a compilation of an individual's criminal history is highly embarrassing information, the

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<sup>1</sup>Although you do not raise section 552.101 in your brief, we understand you to raise this exception based on your arguments.

publication of which would be highly objectionable to a reasonable person. *Cf. U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

In this instance, the requestor asks for all records of arrest and charges for the named individual. This requires the city to compile unspecified law enforcement records concerning the named individual, thus implicating the named individual's right to privacy. Therefore, to the extent the city maintains any law enforcement records depicting this individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. As our ruling is dispositive, we need not address your arguments against disclosure.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/eb

Ref: ID# 467142

Enc. Submitted documents

c: Requestor  
(w/o enclosures)